

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JEREMY L. JOHNSON,

Petitioner,

vs.

SCOT FRAKES, Director; and BRAD
HANSEN, Warden;

Respondents.

8:17CV191

**MEMORANDUM
AND ORDER**

Petitioner filed a Notice of Appeal ([Filing No. 10](#)) on July 11, 2017. Petitioner appeals from the court's Order and Judgment dated June 15, 2017 ([Filing No. 8](#); [Filing No. 9](#)).

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)\(A\)](#):

(a) Leave to Proceed in Forma Pauperis . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding . . .

The court finds that because Petitioner proceeded in forma pauperis in the district court, he may now proceed on appeal in forma pauperis without further authorization.

Petitioner also filed a Motion for Appointment of Counsel, requesting counsel represent him on appeal. ([Filing No. 11](#).) The court cannot routinely appoint counsel in civil cases. In *Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel” *Id.* (quotation and citation omitted). No such benefit is apparent here. The request for the appointment of counsel is therefore denied without prejudice to reassertion before the Eighth Circuit.

IT IS THEREFORE ORDERED that: Petitioner may proceed in forma pauperis on appeal. His request for the appointment of counsel is denied without prejudice to reassertion before the Eighth Circuit. No certificate of appealability will issue. (*See* [Filing No. 8](#).) The clerk of the court shall provide the Eighth Circuit Court of Appeals with a copy of this order.

Dated this 12th day of July, 2017.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge